

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN**

UNITED STATES OF AMERICA,

Plaintiff,

v.

JAMES D. PIERON, JR.,

Defendant.

Case No. 18-cr-20489 (TLL)(PTM)

Hon. Thomas L. Ludington

**RESPONSE IN OPPOSITION TO THE  
GOVERNMENT’S MOTION  
FOR RELEASE OF DRAFT PRESENTENCE REPORT**

For the reasons outlined below, the Defendant, James Pieron, Jr., opposes the Government’s Motion for Release of Draft Presentence Report.

**BRIEF**

The Defendant was found guilty on March 7, 2019, as a result of a jury trial. The Government immediately moved to revoke Defendant’s bond, which was denied. On April 10, 2019, a telephone Status Conference was held with the Court to discuss tax loss issues. The next day the Court issued an Order directing the Government to file draft tax loss calculations under seal by April 15, 2019. The Court also directed the Defendant to respond to the Government’s tax loss

calculation by May 15, 2019. The tax loss calculations filed by the parties were filed under seal.

The Defendant on May 15, 2019, after seeking an extension, filed a Motion for Judgment of Acquittal and a Motion for a New Trial. The Government on July 8, 2019, after seeking an extension, filed its responses to the Motion for Judgment of Acquittal and the Motion for a New Trial.

Regarding the tax loss computations filed by the Government and Defendant, the Court on June 7, 2019, issued an Order Directing Supplemental Briefing by the Government and Defendant. The Government filed its supplemental tax loss brief on July 8, 2019. The Defendant filed its supplemental tax loss brief on July 22, 2019. The Court issued a Notice to Appear for the tax loss hearing scheduled on October 29, 30, and 31, 2019.

### **ARGUMENT**

The Government asks this Court to direct the U.S. Probation Office to release a draft presentence investigation report for James D. Pieron. The process the parties and the Court agreed to was the parties would file tax computations and have a tax loss hearing, if needed, prior to sentencing. There is a distinct difference in the tax loss computations submitted by the parties. Recognizing that, the Court has directed the parties to appear at the end of October to present witnesses and evidence so this Court can determine what the tax loss computation is regarding the Defendant.

In addition, the Defendant has filed two motions that both parties have now briefed, a Motion for Judgment of Acquittal and a Motion for a New Trial. Both Motions will be heard on November 12, 2019.

The Government's Motion for Release of Draft Presentence Report presupposes the Defendant will fail to persuade this Court as to his tax loss computations and the two motions filed. It is possible the Court could determine a tax loss that is significantly less than the Government is seeking. In fact, it is also possible the Court will find the tax loss is zero. Moreover, even if a tax loss is found to exist, the Court could grant one or both of Defendant's motions. The wise course of action is to follow the Court's lead and process outlined, have the tax loss hearing first, then Defendant's two motions. Defendant has expended enormous financial resources to date. It is the Defendant's position that we follow the process agreed to by the parties and the Court. The government's motion should be denied.

Respectfully submitted,

Honigman LLP  
*Attorneys for Defendant*

Date: August 28, 2019

By: /s/ Mark Pendery  
Mark Pendery (P57683)  
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**CERTIFICATE**

On August 28, 2019, I filed the Response in Opposition to the Government's Motion for Release of Draft Presentence Report through the Clerk of the Court's ECF system. The ECF system will automatically serve counsel of record upon:

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I declare that the statements above are true to the best of my information, knowledge, and belief.

Date: August 28, 2019

/s/Mark Pendery